

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- v. -

HUAWEI TECHNOLOGIES CO. LTD,
et al.,

Defendants.

18 CR 457 (S-3) (AMD) (CLP)

**NOTICE OF DEFENDANTS’
MOTION TO DISMISS THIRD
SUPERSEDING INDICTMENT**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE, that upon the accompanying Memoranda of Law dated November 8, 2024, Defendants Huawei Technologies Co., Ltd.; Huawei Device Co., Ltd.; Huawei Device USA Inc; and Futurewei Technologies, Inc. (collectively, “Huawei”) will move this Court, on a date and time to be designated by the Court, to dismiss the S3 Indictment as follows:

- Memorandum of Law #1: Count 1 of the S3 Indictment (RICO Conspiracy) should be dismissed because it fails to allege a cognizable conspiracy, because it fails to allege a domestic application of 18 U.S.C. § 1962(a), because there is no pattern of racketeering activity, and because of multiple flaws related to the alleged “enterprise”;
- Memorandum of Law #2: Counts 2 & 3 (trade secret–related conspiracies) should be dismissed because they are impermissibly duplicitous as a matter of law and violate due process through prejudicial preindictment delay;
- Memorandum of Law #3: Counts 4–9 (wire and bank fraud charges) should be dismissed under *Ciminelli v. United States*, 598 U.S. 309 (2023), and for failure to allege a proper, domestic application of the fraud statutes; and
- Memorandum of Law #4: Counts 10, 11, 12, and 15 (IEEPA, *Klein* conspiracy, and money laundering conspiracy charges) should be dismissed because Counts 11–12 fail to state an offense under IEEPA, Count 15 relies on and must be dismissed along with Count

11, and Count 10 rests on an impermissible reading of 18 U.S.C. § 371.

PLEASE TAKE FURTHER NOTICE, that upon prior order of the Court, *see* Nov. 1, 2024 Order, answering papers, if any, shall be served on or before January 27, 2025, and any reply papers shall be served on or before February 27, 2025.

Dated: New York, New York
November 8, 2024

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